

AMENDED IN SENATE SEPTEMBER 4, 2015

SENATE BILL

No. 155

Introduced by Senator Hertzberg

February 2, 2015

~~An act to add Part 3 (commencing with Section 13750) to Division 8 of the Probate Code, relating to decedent's estates. An act to amend Sections 352 and 359 of the Public Utilities Code, relating to electricity.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 155, as amended, Hertzberg. ~~Decedent's estates. Independent System Operator.~~

The existing restructuring of the electrical industry within the Public Utilities Act provides for the establishment of an Independent System Operator and a Power Exchange as nonprofit public benefit corporations. Existing law requires the Independent System Operator to ensure efficient use and reliable operation of the electrical transmission grid consistent with achieving planning and operating reserve criteria no less stringent than those established by the Western Electricity Coordinating Council and the North American Electric Reliability Council. An Electricity Oversight Board is also established to oversee the Independent System Operator and the Power Exchange in order to ensure the success of electrical restructuring and to ensure a reliable supply of electricity in the transition to a new market structure. Existing law prohibits the Independent System Operator from entering into a multistate entity or regional organization unless the Independent System Operator receives approval from the Electricity Oversight Board.

This bill would authorize the Independent System Operator to enter into a multistate entity or regional organization if that entry is approved by its governing board at a duly noticed public meeting.

Existing law, relative to restructuring of the electrical industry, states the intent of the Legislature with respect to the evolution of the roles of the Independent System Operator and Power Exchange, including to evolve into regional organizations to promote the development of regional electricity transmission markets in the western states and to improve the access of consumers serviced by the Independent System Operator and the Power Exchange to those markets.

This bill would delete references to the Power Exchange in the above-described statement of Legislative intent.

~~Existing law provides for the disposition of a testator's property by will. Existing law establishes the Uniform Testamentary Additions to Trusts Act, under which a valid devise of property may be made by will to the trustee or trustees of a trust established or to be established by the testator or by the testator and some other person, commonly referred to as a pour-over will. Existing law provides that the decedent's property, including property devised by a will, is generally subject to probate administration, except as specified. Existing law establishes simplified procedures for addressing a decedent's estate valued under \$150,000, including authorizing the successor of the decedent to collect property due to the decedent without letters of administration or awaiting probate of a will.~~

~~This bill would establish simplified procedures for the distribution of property, real or personal property of any amount or value, devised by a will to the trustee or trustees of a recipient trust, as defined, without procuring letters of administration. The bill would authorize the trustee or trustees of a recipient trust to file a verified petition setting forth specified facts in the superior court of the county in which the estate of the decedent may be administered, and would authorize the court to issue an order that a particular item or items of property pass without administration and are transferred to the petitioner as trustee or trustees of the recipient trust. The bill would require attorneys' fees for services performed in connection with these provisions to be determined by a private agreement between the attorney and the client, and would specify that attorneys' fees are not subject to approval by the court.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 352 of the Public Utilities Code is*
2 *amended to read:*

3 352. The Independent System Operator may ~~not only~~ enter into
4 a multistate entity or a regional organization as authorized in
5 Section 359 ~~unless if that entry is approved by the Oversight Board.~~
6 ~~its governing board at a duly noticed public meeting.~~

7 *SEC. 2. Section 359 of the Public Utilities Code is amended*
8 *to read:*

9 359. (a) It is the intent of the Legislature to provide for the
10 evolution of the Independent System Operator ~~and the Power~~
11 ~~Exchange~~ into a regional ~~organizations~~ organization to promote
12 the development of regional electricity transmission markets in
13 the western states and to improve the access of consumers served
14 by the Independent System Operator ~~and the Power Exchange~~ to
15 those markets.

16 (b) The preferred means by which the voluntary evolution
17 described in subdivision (a) should occur is through the adoption
18 of a regional compact or other comparable agreement among
19 cooperating party states, the retail customers of which states would
20 reside within the geographic territories served by the Independent
21 System Operator ~~and the Power Exchange.~~ Operator.

22 (c) The agreement described in subdivision (b) should provide
23 for all of the following:

24 (1) An equitable process for the appointment or confirmation
25 by party states of members of the governing ~~boards~~ board of the
26 Independent System Operator ~~and the Power Exchange.~~ Operator.

27 (2) A respecification of the size, structure, representation,
28 eligible membership, nominating procedures, and member terms
29 of service of the governing ~~boards~~ board of the Independent System
30 Operator ~~and the Power Exchange.~~ Operator.

31 (3) Mechanisms by which each party state, jointly or separately,
32 can oversee effectively the actions of the Independent System
33 Operator ~~and the Power Exchange~~ as those actions relate to the
34 assurance of electricity system reliability within the party state
35 and to matters that affect electricity sales to the retail customers
36 of the party state or otherwise affect the general welfare of the
37 electricity consumers and the general public of the party state.

(4) The adherence by publicly owned and investor-owned utilities located in party states to enforceable standards and protocols to protect the reliability of the interconnected regional transmission and distribution systems.

SECTION 1. ~~Part 3 (commencing with Section 13750) is added to Division 8 of the Probate Code, to read:~~

~~PART 3. DETERMINATION OF PROPERTY PASSING TO
TRUSTEE OF RECIPIENT TRUST WITHOUT
ADMINISTRATION~~

~~CHAPTER 1. DEFINITIONS~~

~~13750. For purposes of this part, both of the following definitions shall apply:~~

~~(a) "Pour-over will" means a devise by a will, including any codicils, of property to the trustee or trustees of a recipient trust.~~

~~(b) "Recipient trust" means a trust established as a revocable trust by a decedent during his or her lifetime, either alone or in conjunction with his or her spouse or registered domestic partner, and that is identified in the pour-over will.~~

~~CHAPTER 2. COURT ORDER DETERMINING PASSAGE OF
PROPERTY TO TRUSTEE OR TRUSTEES OF RECIPIENT TRUST~~

~~13751. Subject to further requirements provided in this chapter, if a decedent dies testate and by his or her pour-over will devises some or all of his or her property to the trustee or trustees of a recipient trust, the trustee or trustees of that recipient trust, without procuring letters of administration, may file a petition in the superior court of the county in which the estate of the decedent may be administered requesting a court order that a particular item or items of property pass without administration to the petitioner as trustee or trustees of the recipient trust.~~

~~13752. (a) The procedure provided by this chapter may be used only if:~~

~~(1) At least 40 days have elapsed since the death of the decedent.~~

~~(2) No proceeding is being or has been conducted for the probate administration of the decedent's estate, either in this state or in any other jurisdiction.~~

1 ~~(3) Except as provided in paragraph (4), the devise in the~~
2 ~~pour-over will to the trustee or trustees of the recipient trust applies~~
3 ~~to the entire remainder of the property subject to the pour-over~~
4 ~~will.~~

5 ~~(4) (A) The only other devise or devises, if any, in the pour-over~~
6 ~~will are one or more specific gifts, as defined in subdivision (a) of~~
7 ~~Section 21117, all of which would be eligible for disposition~~
8 ~~without administration pursuant to either of the following~~
9 ~~provisions:~~

10 ~~(i) Part 1 (commencing with Section 13000), as determined by~~
11 ~~the petitioner. Any property that is not a devise of a specific gift,~~
12 ~~as defined in subdivision (a) of Section 21117, in the decedent's~~
13 ~~pour-over will shall be excluded in determining the property or~~
14 ~~estate of the decedent or its value for this purpose.~~

15 ~~(ii) Part 2 (commencing with Section 13500), as determined by~~
16 ~~the petitioner.~~

17 ~~(B) The court may rely on the petitioner's representations~~
18 ~~concerning determinations made by the petitioner pursuant to this~~
19 ~~paragraph.~~

20 ~~(b) The procedure provided by this chapter may be used for real~~
21 ~~or personal property of any amount or value, so long as the other~~
22 ~~requirements of this chapter are satisfied. The value of an~~
23 ~~individual item, or aggregate value of items, of property does not~~
24 ~~need to be included in the petition. An inventory and appraisal~~
25 ~~shall not be required for the property subject to the procedure~~
26 ~~provided by this chapter.~~

27 ~~13753. (a) The petition shall be verified by each petitioner,~~
28 ~~shall contain a request that the court make an order pursuant to~~
29 ~~this chapter that a particular item or items of the decedent's~~
30 ~~property pass without administration to the petitioner as trustee or~~
31 ~~trustees of the recipient trust, and shall state all of the following:~~

32 ~~(1) The facts necessary to determine that the petition is filed in~~
33 ~~the proper county.~~

34 ~~(2) That at least 40 days have elapsed since the death of the~~
35 ~~decedent.~~

36 ~~(3) That no proceeding is being or has been conducted for~~
37 ~~administration of the decedent's estate, either in this state or in~~
38 ~~any other jurisdiction.~~

39 ~~(4) The facts and the provision or provisions of the pour-over~~
40 ~~will upon which the petitioner bases the allegation that a particular~~

1 ~~item or items of property pass without administration to the~~
2 ~~petitioner as trustee or trustees of the recipient trust, including, but~~
3 ~~not limited to, the following:~~

4 ~~(A) That the devise in the pour-over will to the trustee or trustees~~
5 ~~of the recipient trust applies to the entire remainder of the property~~
6 ~~subject to the pour-over will.~~

7 ~~(B) Either of the following, as applicable:~~

8 ~~(i) That there is no devise in the pour-over will other than to the~~
9 ~~trustee or trustees of the recipient trust.~~

10 ~~(ii) The only other devise or devises, if any, in the pour-over~~
11 ~~will are one or more specific gifts, as defined in subdivision (a) of~~
12 ~~Section 21117, all of which would be eligible for disposition~~
13 ~~without administration pursuant to either of the following~~
14 ~~provisions:~~

15 ~~(I) Part 1 (commencing with Section 13000), as determined by~~
16 ~~the petitioner. Any property that is not a devise of a specific gift,~~
17 ~~as defined in subdivision (a) of Section 21117, identified in the~~
18 ~~decedent's pour-over will shall be excluded in determining the~~
19 ~~property or estate of the decedent or its value.~~

20 ~~(II) Part 2 (commencing with Section 13500), as determined by~~
21 ~~the petitioner.~~

22 ~~(5) A description or descriptions of the particular item or items~~
23 ~~of the decedent's property for which the petitioner requests an~~
24 ~~order pursuant to this chapter.~~

25 ~~(6) The name, age, address, and relation to the decedent of each~~
26 ~~of the following:~~

27 ~~(A) Heir and devisee of the decedent.~~

28 ~~(B) Each person named as executor or alternate executor of the~~
29 ~~pour-over will.~~

30 ~~(C) Each beneficiary of the recipient trust. For any future~~
31 ~~interests, this determination shall be made pursuant to subdivision~~
32 ~~(a) of Section 15804, so far as known to any petitioner.~~

33 ~~(D) Each person named as trustee or successor trustee in the~~
34 ~~recipient trust.~~

35 ~~(7) The name and address of any person serving as guardian of~~
36 ~~the estate or conservator of the estate of the decedent at the time~~
37 ~~of the decedent's death, so far as known to any petitioner.~~

38 ~~(b) A copy of the pour-over will shall be attached to, and filed~~
39 ~~in support of, the petition.~~

1 ~~(e) A certification of trust for the recipient trust that satisfies~~
2 ~~the requirements of Section 18100.5 shall be attached to, and filed~~
3 ~~in support of, the petition.~~

4 ~~13754. Notice of hearing shall be given as provided in Section~~
5 ~~1220 to each of the persons named in the petition pursuant to~~
6 ~~Section 13753.~~

7 ~~13755. If the requirements of this chapter are satisfied, the~~
8 ~~court shall issue an order that a particular item or items of property~~
9 ~~pass without administration and are transferred to the petitioner~~
10 ~~as trustee or trustees of the recipient trust. Each item of property~~
11 ~~shall be described in the order. The court shall not issue an omnibus~~
12 ~~order for final distribution pursuant to the procedure provided by~~
13 ~~this chapter.~~

14 ~~13756. (a) Except as provided in subdivision (b), upon~~
15 ~~becoming final, an order under this chapter that property passes~~
16 ~~without administration to the trustee or trustees of the recipient~~
17 ~~trust shall be conclusive on all persons.~~

18 ~~(b) An order issued by the court pursuant to Section 13755 shall~~
19 ~~not preclude the filing of a petition pursuant to Section 17200.~~

20 ~~13757. The attorney's fees for services performed in connection~~
21 ~~with the filing of a petition and obtaining a court order under this~~
22 ~~chapter shall be determined by a private agreement between the~~
23 ~~attorney and the client and are not subject to approval by the court.~~
24 ~~If there is no agreement between the attorney and the client~~
25 ~~concerning the attorney's fees for services performed in connection~~
26 ~~with the filing of a petition and obtaining a court order under this~~
27 ~~chapter and there is a dispute concerning the reasonableness of the~~
28 ~~attorney's fees for those services, a petition may be filed with the~~
29 ~~court in the same proceeding requesting that the court determine~~
30 ~~the reasonableness of the attorney's fees for those services. If there~~
31 ~~is an agreement between the attorney and the client concerning~~
32 ~~the attorney's fees for services performed in connection with the~~
33 ~~filing of a petition and obtaining a court order under this chapter~~
34 ~~and there is a dispute concerning the meaning of the agreement, a~~
35 ~~petition may be filed with the court in the same proceeding~~
36 ~~requesting that the court determine the dispute.~~

37 ~~13758. Nothing in this chapter excuses compliance with~~
38 ~~Chapter 3 (commencing with Section 13100) by the holder of the~~
39 ~~decedent's personal property if an affidavit or declaration is~~
40 ~~furnished as provided in that chapter.~~

1 ~~CHAPTER 3. LIABILITY FOR DEBTS OF DECEDENT~~

2

3 ~~13759. Property transferred to the trustee or trustees of a~~
4 ~~recipient trust pursuant to an order issued under Section 13755~~
5 ~~shall be subject to the payment of claims, debts, and expenses as~~
6 ~~provided in Part 8 (commencing with Section 19000) of Division~~
7 ~~9.~~

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